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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

N.H. } CASE NO. 5:23-cv-1051  
Plaintiff, }  
vs. }  
GATEWAY COLLEGE & CAREER }  
ACADEMY }  
Defendant. }  
} **COMPLAINT**

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## **JURISDICTION AND VENUE**

1. This action arises under the Individuals with Disabilities Education Act [20 U.S.C. § 1400 *et seq.*] (“IDEA”)<sup>1</sup> and pendent state law as hereafter more fully appear. This court has jurisdiction under and by virtue of 20 U.S.C. § 1400 *et seq.*; 42 U.S.C. § 1983; 34 C.F.R. § 300 *et seq.*; 20 U.S.C. Section 1415(i)(3)(A) and Section 1415 (i)(3)(B).

<sup>1</sup> The IDEA was reauthorized in 2004 as the Individuals with Disabilities Education Improvement Act (“IDEIA”). For simplicity and consistency with prior case law, this Complaint will refer to the statutory scheme as the IDEA.

2. Plaintiff N.H. (“Mother”) is the parent of Plaintiff R.Q. (“Student”).

At all times, relevant to this complaint, Mother resided in the State of California, County of Riverside. At all times relevant to this complaint, Student was a minor child residing in the State of California, County of Riverside with his mother.

3. Student is a child with a disability within the meaning of that term as defined under 20 U.S.C. § 1401(3)(A)(i) and is a child with exceptional needs within the meaning of that term as defined in Cal. Educ. Code § 56026, and therefore is entitled to receive special education and related services. Special education services are delivered to students through an individualized education program (“IEP”) developed at a meeting by a team of individuals which include, at a minimum, the student’s parents and school district personnel.

4. Defendant Gateway College & Career Academy (“Charter” and/or “Gateway”) is a nonprofit corporation for the public benefit which operates as a charter public school located within the County of Riverside, State of California, and conducting business therein.

5. Pursuant to Federal Law, disputes under the IDEA are handled in an administrative “due process” hearing. 20 U.S.C. § 1415(f).

6. A prevailing parent in a due process matter is entitled to an award of attorneys' fees for the successful prosecution of that matter. 20 U.S.C. § 1415(i)(3)(B). The district courts of the United States shall have jurisdiction of actions brought under this section. 20 U.S.C. § 1415(i)(3)(A).

## **FACTUAL ALLEGATIONS**

7. Plaintiffs hereby incorporate and re-allege Paragraphs 1-6 above and incorporate the same as though fully set forth herein.

8. Student is a sixteen (16) year old boy who has resided with his Mother and Father within the boundaries of the District at all times relevant to this complaint.

1           9. Student is eligible for special education and related services as  
2 defined by the IDEA and by the District during all times relevant to this complaint.  
3

4           10. On or about August 26, 2022, the Student filed a due process hearing  
5 request with the Office of Administrative Hearings (“OAH”) – the state agency  
6 responsible for administering due process hearings. The District’s August 29, 2022 due  
7 process complaint was designated OAH Case No. 2022080821.

8           11. In the OAH matter, Student raised four issues regarding whether the  
9 Charter denied Student a free appropriate public education (“FAPE”).  
10

11           12. In the consolidated matter, Student raised four issues, designated  
12 Issues 1 – 4 by OAH, (1) whether Gateway denied Student a FAPE by failing to develop  
13 an “administrative” individualized education program (“IEP”) to provide Student  
14 services comparable to those within his last agreed upon and implemented IEP; (2)  
15 whether Gateway denied Student a FAPE by failing to convene an IEP team meeting to  
16 formally adopt Student’s prior IEP within 30 days of Student’s enrollment at Gateway;  
17 (3) whether Gateway denied Student a FAPE by failing to provide Student with a formal  
18 IEP document that outlined his goals, modifications, accommodations, and services; (4)  
19 whether Gateway denied Student a FAPE by offering an “informal program” that was  
20 insufficient to meet Student’s unique needs in academic, occupational therapy, and  
21 speech and language.

22           13. The matter was heard by Administrative Law Judge (“ALJ”) Jennifer  
23 Kelly on January 18, 19, 24, 25, 26, and 27, 2023.  
24

25           14. ALJ Kelly rendered her decision on or about March 22, 2023, finding  
26 that Student was the prevailing party on two issues, issues three and four.  
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28           ///  
29           ///  
30           ///  
31           ///

**FIRST CAUSE OF ACTION**  
**AWARDING OF ATTORNEYS' FEES**

1. Plaintiffs hereby incorporate and re-allege Paragraphs 1-14 above and incorporate the same as though fully set forth herein.
  2. Charter has hereto refused to reimburse Student for successfully prevailing with regard to Issues three and four in the due process matter. Therefore, pursuant to 20 U.S.C. § 1415(i)(3), District should be ordered to make Plaintiffs whole by paying no less than \$182,362.50 in reasonable attorneys' fees and costs.

## REQUESTS

WHEREFORE, Plaintiffs respectfully request the following relief:

- 1) Gateway be ordered to fully reimburse Plaintiff for the reasonable attorneys' fees as a prevailing party in OAH Case No. 2022080821
  - 2) That, upon the successful prosecution of this matter, Parents be awarded their reasonable attorneys' fees as a prevailing party in this appeal.
  - 3) For such other and further relief as the Court deems just and proper.

Dated: June 6, 2023

**TIMOTHY A. ADAMS & ASSOCIATES, APLC**

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